

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
MEDFORD DIVISION

MICHELLE FARABAUGH,

Case No. 1:21 cv 00363-CL  
**ORDER**

Plaintiff,

v.

1-800-FLOWERS.COM, INC.,  
HARRY AND DAVID, LLC.

Defendants.

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Magistrate Judge Mark Clarke filed Findings and Recommendation (“F&R”) (doc. 26) on September 20, 2021. The matter is now before me. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72. No objections have been timely filed. Although this relieves me of my obligation to perform a *de novo* review, I retain the obligation to “make an informed, final determination.” *Britt v. Simi Valley Unified Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983), *overruled on other grounds*, *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121–22 (9th Cir. 2003) (en banc). The Magistrates Act does not specify a standard of review in cases where no objections are filed. *Ray*

*v. Astrue*, 2012 WL 1598239, \*1 (D. Or. May 7, 2012). Following the recommendation of the Rules Advisory Committee, I review the F&R for “clear error on the face of the record[.]” Fed. R. Civ. P. 72 advisory committee’s note (1983) (citing *Campbell v. United States District Court*, 501 F.2d 196, 206 (9th Cir. 1974)); see also *United States v. Vonn*, 535 U.S. 55, 64 n.6 (2002) (stating that, “[i]n the absence of a clear legislative mandate, the Advisory Committee Notes provide a reliable source of insight into the meaning of” a federal rule). Having reviewed the file of this case, I find no clear error.

THEREFORE, IT IS HEREBY ORDERED that I ADOPT Judge Mark Clarke’s F&R (doc. 26).

Dated this 1st day of December, 2021.

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/s/Ann Aiken  
Ann Aiken  
United States District Judge